IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CIVIL APPLICATION NO. 264 OF 2005
IN
SECOND APPEAL NO. 128 OF 1991

Office notes, office memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders.

CORAM : ABHAY S.OKA, J.

DATED : 18th March, 2005.

P.C.:

1. My attention has been invited to the office noting dated 16th March 2005. It is pointed out that the Appellant in the Second Appeal filed Civil Application No.3428 of 1991 for bringing on record the legal representatives of the Respondent No.1 and the said Application was allowed on 22nd April 1991. On the basis of the said order when the notices were issued to the alleged heirs of the Respondent No.1, the report of the Bailiff showed that the Respondent No.1 was very much alive.

2. In this Civil Application the Appellants/ Appellants have stated that in fact they intended to file an application for condonation of delay and for bringing on record the legal representatives of

the Respondent No.1 in companion Second Appeal No.100 of 1991 in which the Respondent No.1 has expired. However, the Application No.3428 of 1991 was wrongly filed in the present Second Appeal. It is stated that the Respondent No.1 in this Second Appeal expired on 17th May 2004 and Civil Application St.No.20853 of 2004 is made for his legal representatives. The Applicants have tendered an apology. The explanation and the apology of the Applicant/Appellant is accepted. Accordingly the Civil Application is allowed in terms of prayer clauses (a), (b)(i) and (c). It is made clear that the permission is granted to delete the name of Respondent No.2 at the risk of the Applicants. No order as to costs.

Judge.